

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN)	<u>ORDER OF APPROVAL</u>
ORDER AUTHORIZING BULLSEYE TELECOM,)	
INC. TO PROVIDE COMPETITIVE LOCAL)	DOCKET NO. TE02070475
EXCHANGE AND EXCHANGE ACCESS)	
TELECOMMUNICATIONS SERVICES)	
WITHIN THE STATE OF NEW JERSEY)	

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and, by letter dated May 30, 2002, BullsEye Telecom, Inc. ("Petitioner" or "BullsEye") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive local exchange and exchange access telecommunications services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit D of its Petition.¹

BullsEye Telecom, Inc. a Michigan corporation, was originally organized on May 9, 1999, as Enterprise Network Solutions, LLC. On April 20, 2000, BT Merger Company was incorporated and merged with Enterprise Network Solutions, LLC. Also on April 20, 2000, BT Merger changed its name to BullsEye Telecom, Inc. Petitioner was incorporated under the laws of the State of Michigan on April 3, 2000. Petitioner's principal offices are located at 25900 Greenfield Road, Suite 330, Oak Park, Michigan 48237.

Petitioner has submitted copies of its Articles of Incorporation, Michigan Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, BullsEye was formed to provide competitive local exchange and exchange access services. Petitioner states that it is currently authorized to provide facilities-based and resold local telecommunications service in Illinois, Indiana, Michigan, Ohio and Wisconsin. The Petitioner has filed an application in Texas and is in the process of filing for authority nationwide. Petitioner states that it has not been denied authority to provide telecommunications service in any state and has not had its authority to provide

¹ Pursuant to the Open Public records Act. N.J.S.A. 47:1A-1. et seq. and by letter from the Secretary, Petitioner has been notified that the Board shall handle such requests for confidential treatment in accordance with the Board's proposed regulations at N.J.A.C. 14:1-12, et seq.

telecommunications service revoked in any state. BullsEye says that it is currently negotiating an interconnection i.e. Unbundled Network Elements Platform (UNE-P) agreement with Verizon New Jersey, Inc. ("Verizon").

In its Petition, Petitioner seeks authority to offer standard residential and business local exchange telecommunications services including basic local service, optional calling features, directory and operator assistance and listing services, to customers throughout New Jersey. Petitioner intends to provide local facilities-based service using Unbundled Network Elements (UNE) and UNE-P arrangement with the local exchange carriers (LECs). Additionally, Petitioner intends to offer intra Local Access and Transport Area (intraLATA) and inter Local Access and Transport Area (interLATA) toll services. Petitioner intends to offer service through the lease of unbundled network elements and, is currently negotiating a UNE-P agreement with Verizon that will be submitted to the Board upon completion. The Petitioner initially proposes to offer service in the same territory as Verizon and, in the future, intends to offer service in United Telephone Service territory as well. Petitioner states that it intends to file its tariff once the Board approves this Petition. According to the Petition, service will be available 24 hours a day, 7 days a week, and customers will receive a monthly billing along with a customer service phone number which is also available 24 hours a day, 7 days a week.

Petitioner requested a waiver of N.J.S.A. 48:3-7.8 and N. J. A. C. 14:1-4.3 and 14:10-1.16 which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requests, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Oak Park, Michigan. Petitioner also states that, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, BullsEye states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to BullsEye, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry.

Petitioner states that it is a privately held corporation that maintains that its financial information is confidential and, therefore states it will submit its financial statements under seal.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat.56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed BULLSEYE's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide competitive local exchange and exchange access telecommunications services in New Jersey subject to approval of its tariff and submission of financial statements. The Board also FINDS that in accordance with N. J. S. A. 48:2-59 and 48:2-60, the Petitioner is subject to an annual assessment by the Board. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements i. e. balance sheet, income statement, statement of change in cash flow and statement of change in equity, have been provided.

The Board HEREBY DIRECTS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Telecommunications, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before, March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's duty and responsibility to make inquiry at the Board and obtain these documents. It is Petitioner's duty and responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 12/19/02

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY

(SIGNED)

JACK ALTER
COMMISSIONER